

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING BY TRK)	ORDER DENYING REQUEST
DEVELOPMENT, INC. FOR AN ELECTRIC)	FOR VARIANCE AND
MASTER METERING VARIANCE)	CLOSING DOCKET
)	EL04-023

On June 21, 2004, TRK Development, Inc. (TRK) filed a request for a variance of the individual metering requirement contained in ARSD 20:10:26. TRK Development is designing a building for affordable housing funded under the South Dakota Housing Development Authority's tax credit program. The building is designed to have the owner pay the electric service for each unit and therefore TRK is requesting to master meter the electric for the building.

On July 20, 2004, at its regularly scheduled meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-34A and ARSD 20:10:26.

The Commission finds that TRK's application does not fall within an exception in ARSD Chapter 20:10:26 which would allow a variance from master metering. As the Commission's final decision in this matter, Commissioner Sahr dissenting, it is therefore

ORDERED, that TRK's request for a master metering variance is denied and this docket is closed.

PLEASE TAKE NOTICE that this Final Decision and Order was duly entered on this 27th day of September, 2004. Pursuant to SDCL 1-26-32, this Final Decision and Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties. Pursuant to ARSD 20:10:01:30.01, an application for a rehearing or reconsideration may be made by filing a written petition therefor and ten copies with the Commission within 30 days from the date of issuance of this Final Decision and Order.

Dated at Pierre, South Dakota, this 27th day of September, 2004.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: _____
Date: _____
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

ROBERT K. SAHR, Chairman, dissenting

GARY HANSON, Commissioner

JAMES A. BURG, Commissioner

DISSENT OF CHAIRMAN SAHR

At our July 20, 2004, Commission meeting the above-named docket was on the agenda. The action considered by this Commission was whether good cause existed to grant a master metering variance to petitioner TRK Development, Inc. pursuant to ARSD 20:10:26:03(3). The majority voted to not allow the variance. I disagree.

While I fully understand the laudable intent of the rules requiring individual metering, there is also a laudable purpose for the rule allowing variances from individual metering. In short, variances can be granted when installation of individual metering is impractical, uneconomical, or infeasible, or in other words, when master metering just makes good sense.

The petitioner is constructing this building to house low income, elderly tenants. The master metering plans for the building's heating and cooling reflected the petitioner's desire to optimize efficiency and to keep combined capital and operating costs as low as possible. Energy efficient central heating and cooling would do this. It was also reasonably anticipated that apartment-by-apartment usage would vary little with or without individual metering given the ages and lifestyles of the residents. The petitioner stated that the initial cost of compliance was \$8,000, and that ongoing billings would add to that total - all without any recognizable conservation benefits.

The petitioner must also comply with a monthly rent cap which combines rent and utilities, a further erosion to any individual metering benefit as the responsibility that normally goes with individual metering disappears with the rent cap. Consequently, the majority is ordering the imposition of individual metering in a situation where there will be little or no benefit.

Finally, the petitioner noted that a significant number of similar apartments in the community have master metered utility service. This harms both his ability to fairly compete, and to offer his tenants as low a price as possible. It also raises the question about whether other buildings are out of compliance.

These were the facts presented to us at the July 20, 2004, commission meeting. The support for individual metering was based on the rigid language of the rule, and some notion of increased energy efficiency. As stated above, it is clear to me the evidence shows more efficiency with master metering. I therefore respectfully dissent from the majority opinion.